

108TH CONGRESS  
2D SESSION

# H. R. 4886

To amend the Internal Revenue Code of 1986 to provide a refundable credit  
for health insurance costs.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2004

Mr. HAYWORTH (for himself, Mr. PETERSON of Minnesota, and Mr. LEWIS  
of Kentucky) introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide  
a refundable credit for health insurance costs.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Credits Act  
5 of 2004”.

6 **SEC. 2. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.**

7 (a) ALLOWANCE OF CREDIT.—

8 (1) IN GENERAL.—Subpart C of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code  
10 of 1986 (relating to refundable personal credits) is

1       amended by redesignating section 36 as section 37  
2       and by inserting after section 35 the following new  
3       section:

4       **“SEC. 36. HEALTH INSURANCE COSTS FOR UNINSURED IN-**  
5                   **DIVIDUALS.**

6       “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
7       dividual, there shall be allowed as a credit against the tax  
8       imposed by this subtitle for the taxable year an amount  
9       equal to the amount paid by the taxpayer during such tax-  
10      able year for qualified health insurance for the taxpayer  
11      and the taxpayer’s spouse and dependents.

12      “(b) LIMITATIONS.—

13              “(1) IN GENERAL.—The amount allowed as a  
14      credit under subsection (a) to the taxpayer for the  
15      taxable year shall not exceed the lesser of—

16                      “(A) the sum of the monthly limitations  
17                      for coverage months during such taxable year  
18                      for the individuals referred to in subsection (a)  
19                      for whom the taxpayer paid during the taxable  
20                      year any amount for coverage under qualified  
21                      health insurance, or

22                      “(B) 90 percent of the sum of the amounts  
23                      paid by the taxpayer for qualified health insur-  
24                      ance for each such individual for coverage

1 months of the individual during the taxable  
2 year.

3 “(2) MONTHLY LIMITATION.—

4 “(A) IN GENERAL.—The monthly limita-  
5 tion for an individual for each coverage month  
6 of such individual during the taxable year is the  
7 amount equal to  $\frac{1}{12}$  of—

8 “(i) \$1,000 if such individual is the  
9 taxpayer,

10 “(ii) \$1,000 if—

11 “(I) such individual is the spouse  
12 of the taxpayer,

13 “(II) the taxpayer and such  
14 spouse are married as of the first day  
15 of such month, and

16 “(III) the taxpayer files a joint  
17 return for the taxable year, and

18 “(iii) \$500 if such individual is an in-  
19 dividual for whom a deduction under sec-  
20 tion 151(c) is allowable to the taxpayer for  
21 such taxable year.

22 “(B) LIMITATION TO 2 DEPENDENTS.—  
23 Not more than 2 individuals may be taken into  
24 account by the taxpayer under subparagraph  
25 (A)(iii).

“(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of a taxpayer—

“(i) who is married (within the meaning of section 7703) as of the close of the taxable year but does not file a joint return for such year, and

“(ii) who does not live apart from such taxpayer’s spouse at all times during the taxable year,

the dollar limitation imposed under subparagraph (A)(iii) shall be divided equally between the taxpayer and the taxpayer’s spouse unless they agree on a different division.

“(3) INCOME PHASEOUT OF CREDIT PERCENTAGE.—

“(A) PHASEOUT FOR SINGLE COVERAGE.—

“(i) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—In the case of an individual (other than a surviving spouse, the head of a household, or a married individual) with self-only coverage, if such individual has modified adjusted gross income in excess of \$15,000 for a taxable year, the 90 percent under para-

graph (1)(B) shall be reduced (but not below zero) by—

“(I) 2 percentage points for each \$250 of such income in excess of \$15,000 but not in excess of \$20,000, and

“(II) 1.25 percentage points for each \$250 of such income in excess of \$20,000.

“(ii) OTHER INDIVIDUALS.—If a taxpayer (other than an individual described in clause (i)) with self-only coverage has modified adjusted gross income in excess of \$25,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced (but not below zero) by 1.5 percentage points for each \$250 of such excess.

“(B) AMOUNT OF REDUCTION FOR FAMILY COVERAGE.—If a taxpayer with family coverage has modified adjusted gross income in excess of \$25,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced (but not below zero) by 0.643 percentage points for each \$250 of such excess. Any percentage resulting from a reduction under this subpara-

1 graph shall be rounded to the nearest one-tenth  
2 of a percent.

3 “(C) MODIFIED ADJUSTED GROSS IN-  
4 COME.—The term ‘modified adjusted gross in-  
5 come’ means adjusted gross income deter-  
6 mined—

7 “(i) without regard to this section and  
8 sections 911, 931, and 933, and

9 “(ii) after application of sections 86,  
10 135, 137, 219, 221, and 469.

11 “(c) COVERAGE MONTH.—For purposes of this sec-  
12 tion—

13 “(1) IN GENERAL.—The term ‘coverage month’  
14 means, with respect to an individual, any month if—

15 “(A) as of the first day of such month  
16 such individual is covered by qualified health in-  
17 surance, and

18 “(B) the premium for coverage under such  
19 insurance for such month is paid by the tax-  
20 payer.

21 “(2) EMPLOYER-SUBSIDIZED COVERAGE.—

22 “(A) IN GENERAL.—The term ‘coverage  
23 month’ shall not include any month for which  
24 such individual is eligible to participate in any  
25 subsidized health plan (within the meaning of

1 section 162(l)(2)) maintained by any employer  
2 of the taxpayer or of the spouse of the tax-  
3 payer. A subsidized health plan shall not in-  
4 clude a plan substantially all of the coverage of  
5 which is of excepted benefits described in sec-  
6 tion 9832(c).

7 “(B) PREMIUMS TO NONSUBSIDIZED  
8 PLANS.—If an employer of the taxpayer or the  
9 spouse of the taxpayer maintains a health plan  
10 which is not a subsidized health plan (as so de-  
11 fined) and which constitutes qualified health in-  
12 surance, employee contributions to the plan  
13 shall be treated as amounts paid for qualified  
14 health insurance.

15 “(3) CAFETERIA PLAN AND FLEXIBLE SPEND-  
16 ING ACCOUNT BENEFICIARIES.—The term ‘coverage  
17 month’ shall not include any month during a taxable  
18 year if any amount is not includible in the gross in-  
19 come of the taxpayer for such year under section  
20 106 with respect to—

21 “(A) a benefit chosen under a cafeteria  
22 plan (as defined in section 125(d)), or

23 “(B) a benefit provided under a flexible  
24 spending or similar arrangement.

1           “(4) MEDICARE, MEDICAID, AND SCHIP.—The  
 2           term ‘coverage month’ shall not include any month  
 3           with respect to an individual if, as of the first day  
 4           of such month, such individual—

5                   “(A) is entitled to any benefits under part  
 6           A of title XVIII of the Social Security Act or  
 7           is enrolled under part B of such title, or

8                   “(B) is enrolled in the program under title  
 9           XIX or XXI of such Act (other than under sec-  
 10          tion 1928 of such Act).

11          “(5) CERTAIN OTHER COVERAGE.—The term  
 12          ‘coverage month’ shall not include any month during  
 13          a taxable year with respect to an individual if, at  
 14          any time during such year, any benefit is provided  
 15          to such individual under—

16                   “(A) chapter 89 of title 5, United States  
 17          Code,

18                   “(B) chapter 55 of title 10, United States  
 19          Code,

20                   “(C) chapter 17 of title 38, United States  
 21          Code, or

22                   “(D) any medical care program under the  
 23          Indian Health Care Improvement Act.

24          “(6) PRISONERS.—The term ‘coverage month’  
 25          shall not include any month with respect to an indi-



vidual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

“(7) INSUFFICIENT PRESENCE IN UNITED STATES.—The term ‘coverage month’ shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(b)(7)).

“(d) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified health insurance’ means health insurance coverage (as defined in section 9832(b)(1)) which—

“(A) is coverage described in paragraph (2), and

“(B) meets the requirements of paragraph (3).

“(2) ELIGIBLE COVERAGE.—Coverage described in this paragraph is the following:

“(A) Coverage under individual health insurance.

1           “(B) Coverage under a group health plan  
2           (as defined in section 5000 without regard to  
3           subsection (d)).

4           “(C) Coverage through a private sector  
5           health care coverage purchasing pool.

6           “(D) Coverage under a State high risk  
7           pool described in subparagraph (C) of section  
8           35(e)(1).

9           “(E) Continuation coverage described in  
10          subparagraph (A) or (B) of section 35(a)(1).

11          “(F) Coverage under an eligible State  
12          buyin program.

13          “(3) REQUIREMENTS.—The requirements of  
14          this paragraph are as follows:

15               “(A) COST LIMITS.—Under the coverage,  
16               the sum of the annual deductible and the other  
17               annual out-of-pocket expenses required to be  
18               paid (other than premiums) for covered benefits  
19               does not exceed—

20                       “(i) \$5,000 for self-only coverage, and

21                       “(ii) twice the dollar amount in clause

22                       (i) for family coverage, or

23               “(B) MAXIMUM BENEFITS.—Under the  
24               coverage, the annual and lifetime maximum  
25               benefits are not less than \$700,000.

1           “(4) ELIGIBLE STATE BUYIN PROGRAM.—For  
2           purposes of paragraph (2)(F)—

3                   “(A) IN GENERAL.—The term ‘eligible  
4           State buyin program’ means a State program  
5           under which an individual not otherwise eligible  
6           for assistance under the State medicaid pro-  
7           gram under title XIX of the Social Security Act  
8           or the State children’s health insurance pro-  
9           gram under title XXI of such Act is able to buy  
10          health insurance coverage through a purchasing  
11          arrangement entered into between the State  
12          and a private sector health care purchasing  
13          group or health plan for purposes of providing  
14          health insurance coverage to recipients of as-  
15          sistance under such program or for purposes of  
16          providing such coverage to State employees.

17                  “(B) REQUIREMENTS.—Subparagraph (A)  
18          shall only apply to a State program if—

19                       “(i) the program uses private sector  
20           health care purchasing groups or health  
21           plans, and

22                       “(ii) the State maintains separate risk  
23           pools for participants under the State pro-  
24           gram.

1       “(e) ARCHER MSA CONTRIBUTIONS; HSA CON-  
2     TRIBUTIONS.—If a deduction would be allowed under sec-  
3     tion 220 to the taxpayer for a payment for the taxable  
4     year to the Archer MSA of an individual or under section  
5     223 to the taxpayer for a payment for the taxable year  
6     to the Health Savings Account of such individual, sub-  
7     section (a) shall not apply to the taxpayer for any month  
8     during such taxable year for which the taxpayer, spouse,  
9     or dependent is an eligible individual for purposes of either  
10    such section.

11       “(f) INFLATION ADJUSTMENT.—

12               “(1) IN GENERAL.—In the case of any taxable  
13     year beginning after 2004, each dollar amount re-  
14     ferred to in subsections (b)(2)(A) and (d)(3) shall be  
15     increased by an amount equal to—

16                       “(A) such dollar amount, multiplied by

17                       “(B) the cost-of-living adjustment deter-  
18     mined under section 213(d)(10)(B)(ii) for the  
19     calendar year in which the taxable year begins,  
20     except that ‘2003’ shall be substituted for  
21     ‘1996’ in subclause (II) thereof.

22               “(2) ROUNDING.—If any amount as adjusted  
23     under paragraph (1) is not a multiple of \$10, such  
24     amount shall be rounded to the next lowest multiple  
25     of \$10.

1 “(g) SPECIAL RULES.—

2 “(1) COORDINATION WITH MEDICAL EXPENSE  
3 DEDUCTION.—The amount which would (but for this  
4 paragraph) be taken into account by the taxpayer  
5 under section 213 for the taxable year shall be re-  
6 duced by the credit (if any) allowed by this section  
7 to the taxpayer for such year.

8 “(2) COORDINATION WITH DEDUCTION FOR  
9 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-  
10 DIVIDUALS.—In the case of a taxpayer who is eligi-  
11 ble to deduct any amount under section 162(l) for  
12 the taxable year, this section shall apply only if the  
13 taxpayer elects not to claim any amount as a deduc-  
14 tion under such section for such year.

15 “(3) DENIAL OF CREDIT TO DEPENDENTS.—No  
16 credit shall be allowed under this section to any indi-  
17 vidual with respect to whom a deduction under sec-  
18 tion 151 is allowable to another taxpayer for a tax-  
19 able year beginning in the calendar year in which  
20 such individual’s taxable year begins.

21 “(4) COORDINATION WITH ADVANCE PAY-  
22 MENT.—Rules similar to the rules of section  
23 35(g)(1) shall apply to any credit to which this sec-  
24 tion applies.

1           “(5) COORDINATION WITH SECTION 35.—If a  
2           taxpayer is eligible for the credit allowed under this  
3           section and section 35 for any taxable year, the tax-  
4           payer shall elect which credit is to be allowed.

5           “(h) EXPENSES MUST BE SUBSTANTIATED.—A pay-  
6           ment for insurance to which subsection (a) applies may  
7           be taken into account under this section only if the tax-  
8           payer substantiates such payment in such form as the Sec-  
9           retary may prescribe.

10          “(i) REGULATIONS.—The Secretary shall prescribe  
11          such regulations as may be necessary to carry out the pur-  
12          poses of this section.”.

13          (b) INFORMATION REPORTING.—

14               (1) IN GENERAL.—Subpart B of part III of  
15               subchapter A of chapter 61 of the Internal Revenue  
16               Code of 1986 (relating to information concerning  
17               transactions with other persons) is amended by in-  
18               serting after section 6050T the following:

19       **“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR**  
20               **QUALIFIED HEALTH INSURANCE.**

21               “(a) IN GENERAL.—Any person who, in connection  
22               with a trade or business conducted by such person, re-  
23               ceives payments during any calendar year from any indi-  
24               vidual for coverage of such individual or any other indi-  
25               vidual under creditable health insurance, shall make the

1 return described in subsection (b) (at such time as the  
2 Secretary may by regulations prescribe) with respect to  
3 each individual from whom such payments were received.

4 “(b) FORM AND MANNER OF RETURNS.—A return  
5 is described in this subsection if such return—

6 “(1) is in such form as the Secretary may pre-  
7 scribe, and

8 “(2) contains—

9 “(A) the name, address, and TIN of the  
10 individual from whom payments described in  
11 subsection (a) were received,

12 “(B) the name, address, and TIN of each  
13 individual who was provided by such person  
14 with coverage under creditable health insurance  
15 by reason of such payments and the period of  
16 such coverage,

17 “(C) the aggregate amount of payments  
18 described in subsection (a), and

19 “(D) such other information as the Sec-  
20 retary may reasonably prescribe.

21 “(c) CREDITABLE HEALTH INSURANCE.—For pur-  
22 poses of this section, the term ‘creditable health insurance’  
23 means qualified health insurance (as defined in section  
24 36(d)).

1       “(d) STATEMENTS TO BE FURNISHED TO INDIVID-  
2 UALS WITH RESPECT TO WHOM INFORMATION IS RE-  
3 QUIRED.—Every person required to make a return under  
4 subsection (a) shall furnish to each individual whose name  
5 is required under subsection (b)(2)(A) to be set forth in  
6 such return a written statement showing—

7               “(1) the name and address of the person re-  
8       quired to make such return and the phone number  
9       of the information contact for such person,

10              “(2) the aggregate amount of payments de-  
11       scribed in subsection (a) received by the person re-  
12       quired to make such return from the individual to  
13       whom the statement is required to be furnished, and

14              “(3) the information required under subsection  
15       (b)(2)(B) with respect to such payments.

16 The written statement required under the preceding sen-  
17 tence shall be furnished on or before January 31 of the  
18 year following the calendar year for which the return  
19 under subsection (a) is required to be made.

20       “(e) RETURNS WHICH WOULD BE REQUIRED TO BE  
21 MADE BY 2 OR MORE PERSONS.—Except to the extent  
22 provided in regulations prescribed by the Secretary, in the  
23 case of any amount received by any person on behalf of  
24 another person, only the person first receiving such



1 amount shall be required to make the return under sub-  
2 section (a).”.

3 (2) ASSESSABLE PENALTIES.—

4 (A) Subparagraph (B) of section  
5 6724(d)(1) of such Code (relating to defini-  
6 tions) is amended by redesignating clauses (xii)  
7 through (xviii) as clauses (xiii) through (xix),  
8 respectively, and by inserting after clause (xi)  
9 the following:

10 “(xii) section 6050U (relating to re-  
11 turns relating to payments for qualified  
12 health insurance),”.

13 (B) Paragraph (2) of section 6724(d) of  
14 such Code is amended by striking “or” at the  
15 end of subparagraph (AA), by striking the pe-  
16 riod at the end of the subparagraph (BB) and  
17 inserting “, or”, and by adding at the end the  
18 following:

19 “(CC) section 6050U(d) (relating to re-  
20 turns relating to payments for qualified health  
21 insurance).”.

22 (3) CLERICAL AMENDMENT.—The table of sec-  
23 tions for subpart B of part III of subchapter A of  
24 chapter 61 of such Code is amended by inserting

1 after the item relating to section 6050T the fol-  
 2 lowing:

“Sec. 6050U. Returns relating to payments for qualified health insurance.”.

3 (c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B  
 4 of chapter 75 of the Internal Revenue Code of 1986 (relat-  
 5 ing to other offenses) is amended by adding at the end  
 6 the following:

7 **“SEC. 7276. PENALTIES FOR OFFENSES RELATING TO**  
 8 **HEALTH INSURANCE TAX CREDIT.**

9 “Any person who knowingly misuses Department of  
 10 the Treasury names, symbols, titles, or initials to convey  
 11 the false impression of association with, or approval or en-  
 12 dorsement by, the Department of the Treasury of any in-  
 13 surance products or group health coverage in connection  
 14 with the credit for health insurance costs under section  
 15 36 shall on conviction thereof be fined not more than  
 16 \$10,000, or imprisoned not more than 1 year, or both.”.

17 (d) CONFORMING AMENDMENTS.—

18 (1) Section 162(l) of the Internal Revenue Code  
 19 of 1986 is amended by adding at the end the fol-  
 20 lowing:

21 “(6) ELECTION TO HAVE SUBSECTION  
 22 APPLY.—No deduction shall be allowed under para-  
 23 graph (1) for a taxable year unless the taxpayer  
 24 elects to have this subsection apply for such year.”.

1           (2) Paragraph (2) of section 1324(b) of title  
2           31, United States Code, is amended by inserting be-  
3           fore the period “, or from section 36 of such Code”.

4           (3) The table of sections for subpart C of part  
5           IV of subchapter A of chapter 1 of the Internal Rev-  
6           enue Code of 1986 is amended by striking the last  
7           item and inserting the following:

          “Sec. 36. Health insurance costs for uninsured individuals.

          “Sec. 37. Overpayments of tax.”.

8           (4) The table of sections for subchapter B of  
9           chapter 75 of such Code is amended by adding at  
10          the end the following:

          “Sec. 7276. Penalties for offenses relating to health insurance tax  
          credit.”.

11          (e) EFFECTIVE DATES.—

12           (1) IN GENERAL.—Except as provided in para-  
13          graph (2), the amendments made by this section  
14          shall apply to taxable years beginning after Decem-  
15          ber 31, 2003, without regard to whether final regu-  
16          lations to carry out such amendments have been pro-  
17          mulgated by such date.

18           (2) PENALTIES.—The amendments made by  
19          subsections (c) and (d)(4) shall take effect on the  
20          date of the enactment of this Act.

1 **SEC. 3. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF**  
2 **QUALIFIED HEALTH INSURANCE.**

3 (a) IN GENERAL.—Chapter 77 of the Internal Rev-  
4 enue Code of 1986 (relating to miscellaneous provisions)  
5 is amended by adding at the end the following:

6 **“SEC. 7529. ADVANCE PAYMENT OF CREDIT FOR HEALTH**  
7 **INSURANCE COSTS OF ELIGIBLE INDIVID-**  
8 **UALS.**

9 “(a) GENERAL RULE.—Not later than January 1,  
10 2005, the Secretary shall establish a program for making  
11 payments on behalf of certified individuals to providers of  
12 qualified health insurance (as defined in section 36(d)) for  
13 such individuals.

14 “(b) PROGRAM OPTIONS.—The program under sub-  
15 section (a) may—

16 “(1) provide that payments may be made on  
17 the basis of modified adjusted gross income of cer-  
18 tified individuals for the preceding taxable year, and

19 “(2) provide that, in lieu of payments to pro-  
20 viders, the following amounts may be offset:

21 “(A) Amounts required to be deposited by  
22 the provider as estimated income tax under sec-  
23 tion 6654 or 6655.

24 “(B) Amounts required to be deducted and  
25 withheld under section 3401 (relating to wage  
26 withholding).

1           “(C) Taxes imposed under section 3111(a)  
2           or 50 percent of taxes imposed under section  
3           1401(a) (relating to FICA employer taxes).

4           “(D) Amounts required to be deducted  
5           under section 3102 with respect to taxes im-  
6           posed under section 3101(a) or 50 percent of  
7           taxes imposed under section 1401(a) (relating  
8           to FICA employee taxes).

9           “(c) CERTIFIED INDIVIDUAL.—For purposes of this  
10          section, the term ‘certified individual’ means any indi-  
11          vidual for whom a qualified health insurance credit eligi-  
12          bility certificate is in effect.

13          “(d) QUALIFIED HEALTH INSURANCE CREDIT ELI-  
14          GIBILITY CERTIFICATE.—For purposes of this section, a  
15          qualified health insurance credit eligibility certificate is a  
16          statement furnished by an individual to a provider of  
17          qualified health insurance which—

18                 “(1) certifies that the individual will be eligible  
19                 to receive the credit provided by section 36 for the  
20                 taxable year,

21                 “(2) estimates the amount of such credit for  
22                 such taxable year, and

23                 “(3) provides such other information as the  
24                 Secretary may require for purposes of this section.”.

1       (b) CLERICAL AMENDMENT.—The table of sections  
2 for chapter 77 of the Internal Revenue Code of 1986 is  
3 amended by adding at the end the following:

“Sec. 7529. Advance payment of health insurance credit for pur-  
chasers of qualified health insurance.”.

4       (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect on July 1, 2005, without re-  
6 gard to whether final regulations to carry out such amend-  
7 ments have been promulgated by such date.

○